

N E W S

NEW JERSEY DEPARTMENT OF

LWD

LABOR AND WORKFORCE DEVELOPMENT
n j . g o v / l a b o r

Contact: Robert Corrales

Tel: (609) 292-0306

Fax: (609) 777-3634

State of New Jersey

Department of Labor and

Workforce Development

PO Box 110

Trenton, New Jersey

08625-0110

**RE: Proposed Readoption with Amendments
N.J.A.C. 12:196 Safe Dispensing of Retail Gasoline**

Attached please find the above-referenced matter which was published in the Tuesday, July 5, 2005 *New Jersey Register*.

If you have any questions, please contact David Fish, Regulatory Officer at 609-292-2789.

(a)

**DIVISION OF PUBLIC SAFETY AND OCCUPATIONAL
SAFETY AND HEALTH**

Safe Dispensing of Retail Gasoline

**Proposed Readoption with Amendments: N.J.A.C.
12:196**

Authorized By: Thomas D. Carver, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and 34:3A-4 et seq., specifically 34:3A-11.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-247.

A public hearing on the proposed readoption with amendments will be held on the following date at the following location:

Monday, August 1, 2005

10:00 A.M. to 12:00 Noon

New Jersey Department of Labor and Workforce Development

John Fitch Plaza

13th Floor Auditorium

Trenton, New Jersey 08625

Please call the Office of Legal and Regulatory Services (609) 292-7375 if you wish to be included on the list of speakers.

Submit written comments by September 3, 2005 to:

Frederick S. Cohen, Executive Director

Office of Legal & Regulatory Services

New Jersey Department of Labor and Workforce Development

PO Box 110, 13th Floor, Suite G

Trenton, New Jersey 08625-0110

Fax: (609) 292-8246

If you need this document in Braille, large print or audio cassette, contact the Office of Communications at (609) 292-7832 or NJ Relay (TTY) 1-800-852-7899.

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 12:196, Safe Dispensing of Retail Gasoline, is scheduled to expire on December 9, 2005. The Department of Labor and Workforce Development has reviewed these rules and has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated. Amendments to N.J.A.C. 12:196-1.2 and 1.12 reflect the formal name change of the agency from the Department of Labor to the Department of Labor and Workforce Development. In addition, N.J.A.C. 12:196-1.12 is being amended to provide the correct mailing address of the Division of Public Safety and Occupational Safety and Health. N.J.A.C. 12:196-1.9 is being amended so that it comports with the New Jersey Uniform Fire Code requirement that a portable fire extinguisher shall be located within 30 feet of travel distance in all service stations.

A summary of the sections proposed for readoption with amendments follows:

N.J.A.C. 12:196-1.1 sets for the purpose and scope of this chapter.

N.J.A.C. 12:196-1.2 defines the words and terms used throughout the chapter.

N.J.A.C. 12:196-1.3 sets forth attendant duties.

N.J.A.C. 12:196-1.4 addresses the training of attendants.

N.J.A.C. 12:196-1.5 concerns the certification of attendants.

N.J.A.C. 12:196-1.6 discusses the portable containers which are acceptable for holding fuel.

N.J.A.C. 12:196-1.7 requires emergency shut-off switches to be provided at a place distant from dispensing devices.

N.J.A.C. 12:196-1.8 addresses sources of ignition and other prohibited activity in the vicinity of pumps and during fueling operations.

N.J.A.C. 12:196-1.9 mandates that retail gasoline stations have at least one portable fire extinguisher in certain areas for fire control.

N.J.A.C. 12:196-1.10 provides for the posting of warning signs in the fuel dispensing area.

N.J.A.C. 12:196-1.11 sets forth documents referred to by reference.

N.J.A.C. 12:196-1.12 provides for the inspection of documents referenced in this chapter.

N.J.A.C. 12:196-1.13 and 1.14 set forth conduct which is considered a violation of the Retail Gasoline Dispensing Safety Act (Act), N.J.S.A. 34:3A-4 et seq., and codify existing procedures whereby retail gasoline station owners/operators in violation of the Act can request and receive hearings concerning violations found by the Department. Administrative penalties of \$50.00 to \$500.00 may be assessed.

As the Department has provided for a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments will have a positive social impact. By providing reasonable standards for the dispensing of retail gasoline, these rules protect the health, safety and welfare of the general public.

Economic Impact

The rules proposed for readoption with amendments will have minimal, if any, economic impact on retail gasoline operators governed by these rules, since the majority of them have already established the procedures necessary to comply with the requirements for safe dispensing of retail gasoline. New retail gasoline operators will incur the costs associated with ensuring that their employees are trained and certified, installing safety signs and equipment and establishing safety procedures as required by these rules. However, the cost of implementing these requirements is minimal and is outweighed by the need to protect the health, safety and welfare of the general public. In addition, the Department will not incur any additional costs as a result of the rules proposed for readoption.

Federal Standards Statement

No Federal standards or requirements are applicable to the subject matter of this rulemaking. The rules set forth at N.J.A.C. 12:196 provide reasonable standards for the safe dispensing of retail gasoline as required by N.J.S.A. 34:3A-4 et seq. As a result, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for readoption with amendments will not have an impact on jobs. The Department does not anticipate an increase or decrease in jobs as a result of the rules proposed for readoption.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments maintain established standards for the safe dispensing of retail gasoline. As noted above, most existing retail gasoline operators have already complied with these requirements. However, retail gasoline operators seeking to commence operations in the State, including those that are small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., will incur costs associated with employee training and certification, installation of safety signs and equipment and the establishment of safety procedures. These costs, however, are far outweighed by the need to provide a healthy and safe environment for the general public. The Department makes no exception in its application of these standards for small businesses, but rather limits exemptions to those listed at N.J.A.C. 12:196-1.1(c). No professional services will be required to comply with the standards for the safe dispensing of retail gasoline.

Smart Growth Impact

The rules proposed for readoption with amendments will not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:196.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 1. REQUIREMENTS

12:196-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Commissioner" means the Commissioner, New Jersey Department[,] of Labor and Workforce Development, or his or her designee.

...

12:196-1.9 Fire control

The station owner shall insure that [there is] at least one [listed] portable fire extinguisher [having a minimum classification of 20 B:C located so that there is an extinguisher within 100 feet (30 meters) of each pump, dispenser, underground fill pipe opening, and lubrication or service room] with a minimum 2-A:40-B:C rating shall be located within 30 feet (9,144 mm) of travel distance in all service stations as required by the New Jersey Uniform Fire Code, N.J.A.C. [5:18] 5:70.

12:196-1.12 Availability of documents for inspection

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Public Safety and Occupational Safety and Health between the hours of 9:00 A.M. and 4:00 P.M. on normal working days.

New Jersey Department of Labor and Workforce Development
Division of Public Safety and Occupational Safety and Health
Office of Public Safety Compliance
[225 East State Street] 1 John Fitch Plaza
PO Box 386
Trenton, New Jersey 08625-0386